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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/437,535	11/10/1999	DAVID S BREED	ATI-207	8122

22846 7590 06/24/2003  
BRIAN ROFFE, ESQ  
11 SUNRISE PLAZA, SUITE 303  
VALLEY STREAM, NY 11580-6170

EXAMINER

TO, TOAN C

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 06/24/2003

#21

Please find below and/or attached an Office communication concerning this application or proceeding.

DS

<b>Office Action Summary</b>	<b>Application No.</b> 09/437,535	<b>Applicant(s)</b> BREED ET AL.	
	<b>Examiner</b> Toan C To	<b>Art Unit</b> 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2001.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9, 10-12, 16-22, 24-25, 28-30, 32-33, and 36-40 is/are rejected.
- 7) ☒ Claim(s) 4-6, 13-15, 23, 26-27, 31, and 34-35 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- |   |  |
|---|--|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other:  |

**DETAILED ACTION**

***Reopened Prosecution After Decision By Board***

1. In view of Decision By Board, prosecution on the merits of this application is hereby reopened. An action follows.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 7-9, 10-12, 16-19, 20-22, 24-25, 28-30, 32-33, and 36-40, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaji et al (U.S. 5,222,761) in view of White et al (U.S. 5,071,160).

***As claims 1-3, 7-9, 10-12, 16-19, and 36-40:***

Kaji et al discloses a vehicle having an arrangement to controlling deployment of a side air bag (4FR) which is located at a side door (2FR).

Kaji et al fails to disclose a vehicle having an arrangement with the following: a determining means having at least one receiver which is an ultrasonic transducer and mounted adjacent to the airbag module, and a processor coupled to the at least one receiver, for determining the position of at least a part of the occupant; a control circuit coupled to the determining means for controlling deployment of the airbag.

White et al discloses a vehicle having an arrangement with the following: a determining means (24) having at least one receiver which is an ultrasonic transducer

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(26) and mounted adjacent to the airbag module, and a processor (36) coupled to the at least one receiver, for determining the position of at least a part of the occupant; a control circuit (12) coupled to the determining means for controlling deployment of the airbag (16); and wherein, the control circuit control deployment of the airbag by suppressing deployment of the airbag (see column 1, lines 23-27) in order to control the airbag module by determining the position of the occupant within a vehicle and to provide means for responsive to the position sensing means for adjusting the response of the safety restraint to accommodate the position that the occupant has assumed at the instant the airbag is deployed or actuated.

Regarding to claims 7-8, and 16-17, it would have been an obvious design choice for one having ordinary skill in the art to mount the at least one receiver in a door of the vehicle or adjacent to the air bag module in order to determine the present of occupant in the seat.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a vehicle having an arrangement of Kaji et al as taught by White et al to include the following: a determining means having at least one receiver which is an ultrasonic transducer and mounted adjacent to the airbag module, and a processor coupled to the at least one receiver, for determining the position of at least a part of the occupant; a control circuit coupled to the determining means for controlling deployment of the airbag in order to control the airbag module by determining the position of the occupant within a vehicle and to provide means for responsive to the position sensing means for adjusting the response of the safety

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restraint to accommodate the position that the occupant has assumed at the instant the airbag is deployed or actuated.

**As to claims 20-22, 24-25, 28-30, 32-33:**

It is noted that method steps as recited in claims 20-22, 24-25, 28-30, and 32-33 are process of using product structures as recited in claims 1-3, 7-8, 10-12, 16-19, and 36-40. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kaji in view While to include the claimed method, because Kaji in view While teach all the structures necessary to perform the claimed method, one of ordinary skill in the art would find the claimed method to be an obvious step in light of the disclosed structure in order to gain the benefit of optimizing protection of the occupant.

***Allowable Subject Matter***

4. Claims 4-6, 13-15, 23, 26-27, 31, 34-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

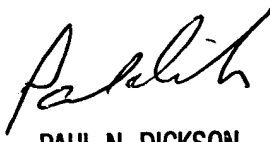
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan To whose telephone number is (703) 306-5951. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson, can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-2571. Any inquiry of a general nature or relating to the status of this application or this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.

To, T

June 23, 2003

 6/23/03  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600